2370.

SUPREME COURT OF THE UNITED STATES.

No. 207.

URIAH A. BOYDEN, PLAINTIFF IN ERROR,

vs.

EDMUND BURKE.

IN ERROR TO THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF COLUMBIA, HOLDEN IN AND FOR THE COUNTY OF WASHINGTON.

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GIDEON, Print.

Style of court.

DISTRICT OF COLUMBIA, *to wit:*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-sixth day of the same month, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-third; present, William Cranch, chief judge; the honorable James S. Morsell, James Dunlop, assistant judges; Richard Wallach, esquire, marshal; John A. Smith, clerk.

In the records of the proceedings of the same court, among others are the following, to wit:

Parties.

URIAH A. BOYDEN
against
EDMUND BURKE.

Be it remembered, that heretofore, to wit, on the seventeenth day of January, in the year of our Lord one thousand eight hundred and forty-nine, the said Uriah A. Boyden, by Joseph H. Bradley and Richard H. Laskey, esquires, his attorneys, prosecuted and sued forth out of the circuit court here the United States writ of capias ad respondendum, directed to the marshal of the district aforesaid, in the words and of the tenor following, to wit:

Capias.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America, to the marshal of the District of Columbia, greeting:

We command you that you take Edmund Burke, late of Washington county, if he shall be found within the county of Washington, in your said district, and him safely keep, so that you have his body before the circuit court of the District of Columbia, to be held for the county aforesaid, at the city of Washington, on the 4th Monday of March next, to answer unto Uriah A. Boyden in a plea of trespass on the case, and so forth. Herein fail not at your peril, and have you then and there this writ.

Witness W. Cranch, esquire, chief judge of our said court, at the city of Washington, the 8th day of January, anno domini one thousand eight hundred and forty-nine.

Issued the 17th day of January, 1849.

JNO. A. SMITH, *Clerk*.

(LASKEY.)

And the aforesaid plaintiff, by his attorneys aforesaid, on the day of prosecuting and suing forth of the aforesaid writ, declared against the said defendant in the plea aforesaid, in form following, to wit:

Nar.

DISTRICT OF COLUMBIA,
Washington county, to wit:

Edmund Burke was attached to answer unto Uriah A. Boyden, in a plea of trespass on the case; and whereupon the said plaintiff, by Bradley and Laskey, his attorneys, complains, for that, whereas, heretofore, to wit, on the 20th day of January, 1848, at the county aforesaid, the said defendant then and there being Commissioner of the Patent office of the United States, and as such Commissioner having the control and custody of the records of the patents, drawings, and specifications of patents theretofore granted, from time to time, by the United States, to divers persons, and being, as such Commissioner, bound by law to grant to applicants therefor, on the payment of certain fees provided by law, copies of such patents, drawings, and specifications, as such applicant might desire to have, the said plaintiff in fact says he did, on the 20th day of January, 1848, at the county aforesaid, apply to the said Edmund Burke, commissioner as aforesaid, for copies of patents of George W. Henderson and John E. Cayford, dated April 14, 1830; also of Charles Kenzie, dated July 1, 1836; also of J. K. Millard, dated 9th May, 1846; which said patents had been theretofore granted by the said United States to the said George W. Henderson and John E. Cayford, Charles Kenzie, and J. K. Millard, respectively; and copies of which, together with the drawings, specifications, and claims thereof, were then and there on file and of record in the said Patent office, and subject to the custody and control of said defendant, and did then and there tender to said defendant the customary and legal fees to which said defendant was entitled for said copies; and the said defendant did then and there wilfully, maliciously, and corruptly, and by color of his office, and with intent to injure the said plaintiff, thereby refuse to give the said copies to, and to cause said copies to be made for and given to the said plaintiff, to the damage of the plaintiff ten thousand dollars, ($10,000,) and therefore he sues.

BRADLEY & LASKEY,
For plaintiff.

Return of capias.

At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and forty-nine, being the day of the return of the aforegoing writ, comes into the circuit court here the said plaintiff, by his attorneys aforesaid; and the marshal of the district aforesaid, to whom the said aforegoing writ was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit:

"Cepi. R. WALLACH, *Marshal.*"

Defendant's appearance—Rule plea—Imparlance.

And the said defendant being called, appears in court here, by Richard S. Cox and James M. Carlisle, esquires, his attorneys; and thereupon, on motion of the said plaintiff, by his attorneys aforesaid, it is ruled by the court here that the said defendant answers to the declaration aforesaid of the said plaintiff in the plea aforesaid, or judgment by the court here will be entered against him in default thereof; and the said defendant, by his attorneys aforesaid, defends the force and injury, when, and so forth, and prays leave of the court here to imparle until the third Monday of October next, and then to answer to the declaration aforesaid of the said plaintiff in the plea aforesaid, and to him it is granted; the same day is given to the aforesaid plaintiff also.

3d Monday of October—Plea of not guilty—Issue joined—Venire facias to 4th Monday, March, 1850*—Appearance and continuance.*

At which said third Monday of October, in the year of our Lord one thousand eight hundred and forty-nine, to which said day the said defendant had leave to imparle, and then to answer to the declaration of the said plaintiff in the plea aforesaid, comes again into court here as well the said plaintiff, by his attorneys aforesaid, as the said defendant, by his attorneys aforesaid. And the said defendant, by his attorneys aforesaid, as before, defends the force and injury, when, and so forth, and saith that he is not guilty of the premises aforesaid, in form aforesaid, as the said plaintiff above against him hath declared; and of this he puts himself upon the country; and the said plaintiff, by his attorneys aforesaid, in like manner, and so forth; therefore let a jury thereon appear before the court here on the fourth Monday of March next, by whom, and so forth; and who neither, and so forth; to recognise, and so forth; because as well, and so forth; the same day is given to the aforesaid parties, then and there, and so forth. At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and fifty, comes again into court here as well the said plaintiff, by his attorneys aforesaid, as the said defendant, by his attorneys aforesaid; thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the third Monday of October next.

3d Monday, October, 1850*—Appearance and continuance to fourth Monday, March,* 1851.

At which said third Monday of October, in the year of our Lord one thousand eight hundred and fifty, comes again into court here as well the said plaintiff, by his attorneys aforesaid, as the said defendant, by his attorneys aforesaid; thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here there-

on, is further continued until the fourth Monday of March next. At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and fifty-one, comes again into the court here as well the said plaintiff, by his attorneys aforesaid, as the said defendant, by his attorneys aforesaid; thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the third Monday of October next.

3d Monday, October, 1851.

And now, at this day, to wit, the said third Monday of October, in the year of our Lord one thousand eight hundred and fifty-one, comes again into the circuit court here as well the said plaintiff, by his attorneys aforesaid, as the said defendant, by his attorneys aforesaid; whereupon, for trying the issue aforesaid, it is ruled by the court here that twelve men from the panel of petit jurors, returned to the court here by the marshal of the District aforesaid, be called, who, being called, come, to wit:

Jury.

1. David A. Gardner,
2. David Bassett,
3. Abraham Butler,
4. Eben Brown,
5. John Bayne,
6. Hilleary L. Offutt,
7. Benjamin S. Myers,
8. Alfred Ray,
9. William Drake,
10. Joseph Hedrick,
11. Thomas Oxley,
12. George Crandel.

Verdict not guilty, and judgment for defendant.

Who being duly empannelled, and sworn to say the truth in the premises, upon their oath do say, that the said defendant is not guilty of the premises within specified, as the said defendant hath within alleged; therefore it is considered by the court here that the said plaintiff take nothing by his writ aforesaid, and that he be in mercy for his false clamor; and that the said defendant go thereof without day, and so forth; and it is also considered by the court here that the said defendant recover against the said plaintiff the sum of seventy-nine dollars and ninety-two cents, for his costs and charges by him about his defence in this behalf laid out and expended, unto the said defendant, by the court here, with his assent, adjudged.

Memorandum.

Before the jurors aforesaid withdrew from the bar of the court here, the said plaintiff, by his attorneys aforesaid, filed in court here the following bills of exceptions, to wit:

2379.
5

Plaintiff's first bill of exception.

BOYDEN
vs.
BURKE.

On the trial of the issue in this cause the plaintiff, to maintain the issue on his part joined, offered to give evidence tending to show that he is a citizen of the United States, residing in Boston, in the State of Massachusetts; that he is a civil engineer and machinist, and as such was in the month of January, 1848, engaged in making improvements in "Turbines" and "water wheels;" that this fact was known to the defendant; that defendant was at the same time Commissioner of Patents; that the plaintiff, in order to see what machinery having in view the same purpose had been theretofore patented, as well to guard himself against any suit by such previous patentees for any alleged infringement of their said patents, as also to avoid any infringement thereof, and to save himself time, labor, and expense, required copies of certain patents then of record in the Patent office, and which had been theretofore issued to, (copied on page 16;) that on the 20th day of January, 1848, the said plaintiff applied to the said defendant, as Commissioner of Patents as aforesaid, for copies of the said patents, and tendered himself ready and "offered to pay the usual fees required by law for copies," and the defendant thereupon, as Commissioner as aforesaid, answered the said application in writing, as follows, (copied on page 22.)

To all which evidence, so as aforesaid offered by the plaintiff, and to every part thereof, except the said memorandum last above mentioned, the defendant by his counsel objects, as inadmissible upon the issue joined, and the court refused to permit the said evidence so objected to to be given; and thereupon the plaintiff, by his counsel, excepts thereto, and prays the court to sign and seal, and cause to be enrolled according to the statute, this his first bill of exceptions, which is done this 18th day of November, 1851.

JAMES S. MORSELL, [SEAL.]
JAMES DUNLOP. [SEAL.]

Plaintiff's second bill of exception.

The plaintiff then read in evidence, without objection, the memorandum made by the defendant, dated 20th January, 1848, (copied on page ,) and then gave evidence tending to show that on or about the 22d day of December, 1847, J. J. Greenough, by authority of the plaintiff, called at the Patent office to obtain for him copies of three several patents which had theretofore been issued by said office for "Turbines" or "water wheels;" that he was refused by the clerk to whom he applied, to the defendant, and informed defendant, that he had been requested by plaintiff to obtain for him copies of those patents,

and defendant refused saying, he would not have any thing to do with Mr. Boyden, directly or indirectly, or words to that effect; and upon his cross examination, witness stated that he asked Mr. Burke to give him in writing his reasons for so refusing, which he then and there promised to do; and some days after the witness received a letter from the defendant containing those reasons, which letter he had transmitted to the plaintiff; and then upon cross examination the counsel for the defendant called upon the plaintiff to produce said letter, and the plaintiff admitting he had said letter then in court, refuses to produce the same, on the ground that the said letter, if produced, would not be evidence; but the court overruling the objection of the defendant, ordered the same to be produced, and thereupon the said letter was produced by the plaintiff; and the defendant, by his counsel, offers to read the same in evidence, and the plaintiff, by his counsel, objects thereto, but the court permits the same to be read in evidence, and it is read accordingly, as follows, (copied on page ;) and the plaintiff, by his counsel, excepts thereto, and prays the court to sign and seal this his second bill of exceptions, and to cause the same to be enrolled according to the statute; all which is done this 18th day of November, 1851.

JAMES S. MORSELL, [SEAL.]
JAMES DUNLOP. [SEAL.]

Plaintiff's third exception.

And here the plaintiff rested; and thereupon the defendant offered to read in evidence a letter addressed to him by the plaintiff, dated 14th December, 1847, (copied on page ;) and also a letter from plaintiff to J. J. Greenough, which it is admitted is the same letter referred to in the testimony of said Greenough as containing the authority under which he applied for the copies of patents as testified by him in his examination by the plaintiff, which letter bears date the 14th December, 1847, (copied on page ;) to the admissibility of which said letters, or either of them, as evidence in this cause, the plaintiff, by his counsel, objects, and the court overrules the said objection, and permits both of said letters to be read in evidence; and the handwriting of the plaintiff thereto being admitted, the same are read accordingly, and the plaintiff, by his counsel, excepts thereto, and prays the court to sign and seal this his third bill of exceptions, and to cause the same to be enrolled according to the statute; which is done accordingly this 18th day of November, 1851.

JAMES S. MORSELL, [SEAL.]
JAMES DUNLOP. [SEAL.]

Plaintiff's 4th exception.

And thereupon, and upon the whole evidence aforesaid, the defendant prayed the court to instruct the jury that upon the evidence afore-

said, if the same is believed by the jury, the plaintiff is not entitled to recover in this action; which instruction the court gave, and the plaintiff, by his counsel, excepts thereto, and prays the court to sign and seal this his 4th bill of exceptions, and to cause the same to be enrolled according to the statute, which is done accordingly, this 18th day of November, 1851.

JAS. S. MORSELL, [SEAL.]
JAS. DUNLOP. [SEAL.]

Three patents referred to in plaintiff's 1st bill of exceptions, page 11.

PATENT OFFICE, *January* 20, 1848.

Mr. R. H. Laskey, as the agent of Uriah A. Boyden, calls for the following copies of patents, including drawings, specifications, and claims, or of all of them, which are recorded in the Patent office, viz., George W. Henderson and John E. Cayford's patent, dated April 14, 1830; Charles Kenzie's patent, dated July 1st, 1836; and J. K. Millard's patent, dated May 9, 1846, for which he offers to pay the usual fees required by law for copies.

I hereby refuse to give him the copies called for for Mr. Boyden, or to transact any other business for Mr. Boyden with Mr. Laskey. I do not refuse copies of any patents or other papers which Mr. Laskey requires for himself or for any other person except Mr. Boyden. I refuse to do any business for Mr. Boyden, whether he applies for the same personally, or by agent, until he comes to the conclusion to observe, in his communications with this office, or its official head, the proprieties usually observed in official intercourse. When he comes to the conclusion to address this office, or its head, in respectful language, any business which he may have with it will be done as it is done for other persons, whether he applies in person or by agent.

EDMUND BURKE.

The above was drawn up and read in presence of Mr. Laskey and of the undersigned.

H. H. SYLVESTER,
S. T. SHUGERT.

Mr. Shugert called.

The statement drawn up in the presence of Mr. Laskey, dated January 20, 1848, was drawn up in my presence also.

S. T. SHUGERT.

Mr. Greenough called.

At the request of Mr. Boyden, I called on the Commissioner of Patents for copies of papers in the cases of Geo. W. Henderson and

Jno. E. Crayford, patented April 14, 1830; Charles Kenzie's patent, dated 1st July, 1836; and J. K. Millard's patent, dated May 9, 1846 The date for the application of these was the 22d December, 1847.

Mr. Boyden requested me to tender the money to the Commissioner for the copies I ordered. I stated to the Commissioner that I had the money with me, and would pay for them. The Commissioner informed me that he would consider the money as tendered to him; that that was not his reason for refusing the copies; that he should refuse to furnish the copies to Mr. Boyden on account of his abusive letters, I think was the term used, to the office, until he had apologized therefor.

I subsequently addressed a letter to the office, and Mr. Burke addressed another to me on that subject. I informed Mr. Burke, when I called for the copies, that I called for them for Mr. Boyden.

When I received the letter (see page) from Mr. Burke, I immediately forwarded it to Mr. Boyden, as containing as full an answer as I could give.

J. J. GREENOUGH.

Burke's letter, January 5, 1848.

PATENT OFFICE, *January* 5, 1848.

SIR: Your note of this morning is received. I handed your letter of the 21st ult., requesting certain copies for Uriah A. Boyden, to the chief clerk, with instructions to prepare an answer, who informed me that you had told him that you did not desire an answer. Hence none *were* prepared.

In my personal interview with you I apprised you that I could not cause the copies to be prepared for you as the agent of Mr. Boyden, and gave you the reason why I could not. That reason was, that Mr. Boyden had repeatedly written letters to the office, personally insulting to the head of the office; that he had, but a few days before your application, written a letter of that description, thus showing a premeditated design, on his part, to insult the head of the Patent office. Under these circumstances I could not, as I informed you, permit any business to be done for him on his own application, or on that of any other person in his behalf. I cannot permit him to insult the head of the office in communications written by himself, and at the same time have his business done through the intervention of another person. Of these reasons for declining to cause the copies to be made for him, which you requested, you were duly apprised. And you were also informed, as Mr. Boyden himself has been informed, that until he comes to the conclusion to treat this office with the civility which the customs and rules of official intercourse require, this office will have no intercourse with him, directly or through the agency of others. When he concludes to conduct his intercourse with this office with decency and propriety, his business will be attended to.

You will readily perceive the necessity of this course of action on

my part. Every public office must have the means of protecting itself from insult. All courts of justice and legislative bodies have that power. If Mr. Boyden had addressed the insulting language to a judge upon the bench which he has used in his letters to me, he would have been committed to prison for contempt. If he had addressed (it) to me personally in my office, I should have required the servants of the Patent office forcibly, but gently, to remove him to the street. Addressing me from a distance in writing, I have no other recourse but to return his offensive letters, and to suspend all official intercourse with him.

These are the reasons why I declined to order copies for him on your demand. As my determination in this matter is inflexible, I shall reply to no more letters from him, nor from his agents who are apprised of the character of his intercourse with this office, until he comes to the conclusion to address the head of the office in respectful language.

You were right in informing me for whom you wanted the copies. I do not refuse them on the ground that you did not tender the money for them, but solely on the ground of the repeatedly insulting conduct towards the head of this office of your employer.

For yourself, individually, or as the agent of others who appreciate and observe the proprieties of official intercourse, I need not say that the Patent office is ready at all times to do anything within the scope of its legitimate duties.

EDMUND BURKE,
Commissioner of Patents.

J. J. Greenough, Washington city.

Boyden to Burke, Dec. 14, 1847.

BOSTON, MASS., *December* 14, 1847.

SIR: I received two of my letters of the 7th and 18th of September, 1847, which I formerly sent to you, which I presume you returned; and I have lately received the copies of Babbit's, Pilling's, and Wheeler's patent.

I hoped after sending my letter of September 7, 1847, that you would conclude to recede from your improper conduct; but as sufficient time has elapsed, and as I have given you sufficient opportunities for receding, and you have only partially done so, it seems necessary for me now to give you further proof of the impropriety of your management.

In your letter of August 10, 1847, you say, that you return my letter of August 13, 1847, to me "unanswered," because it is not. as you say, "in respectful and proper language;" and you say that, "until you can address the office in *in* a respectful and proper manner, your business cannot receive its attention." Though you use the word "office" in several places in this letter, it does not appear whether you mean by it yourself, or those employed under your direction, or something else, and I cannot infer from this letter who or what you wish me to address my letters to. On page 15 of a printed circular, which

Jno. E. Crayford, patented April 14, 1830; Charles Kenzie's patent, dated 1st July, 1836; and J. K. Millard's patent, dated May 9, 1846 The date for the application of these was the 22d December, 1847.

Mr. Boyden requested me to tender the money to the Commissioner for the copies I ordered. I stated to the Commissioner that I had the money with me, and would pay for them. The Commissioner informed me that he would consider the money as tendered to him; that that was not his reason for refusing the copies; that he should refuse to furnish the copies to Mr. Boyden on account of his abusive letters, I think was the term used, to the office, until he had apologized therefor.

I subsequently addressed a letter to the office, and Mr. Burke addressed another to me on that subject. I informed Mr. Burke, when I called for the copies, that I called for them for Mr. Boyden.

When I received the letter (see page) from Mr. Burke, I immediately forwarded it to Mr. Boyden, as containing as full an answer as I could give.

J. J. GREENOUGH.

Burke's letter, January 5, 1848.

PATENT OFFICE, *January* 5, 1848.

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In my personal interview with you I apprised you that I could not cause the copies to be prepared for you as the agent of Mr. Boyden, and gave you the reason why I could not. That reason was, that Mr. Boyden had repeatedly written letters to the office, personally insulting to the head of the office; that he had, but a few days before your application, written a letter of that description, thus showing a premeditated design, on his part, to insult the head of the Patent office. Under these circumstances I could not, as I informed you, permit any business to be done for him on his own application, or on that of any other person in his behalf. I cannot permit him to insult the head of the office in communications written by himself, and at the same time have his business done through the intervention of another person. Of these reasons for declining to cause the copies to be made for him, which you requested, you were duly apprised. And you were also informed, as Mr. Boyden himself has been informed, that until he comes to the conclusion to treat this office with the civility which the customs and rules of official intercourse require, this office will have no intercourse with him, directly or through the agency of others. When he concludes to conduct his intercourse with this office with decency and propriety, his business will be attended to.

You will readily perceive the necessity of this course of action on

my part. Every public office must have the means of protecting itself from insult. All courts of justice and legislative bodies have that power. If Mr. Boyden had addressed the insulting language to a judge upon the bench which he has used in his letters to me, he would have been committed to prison for contempt. If he had addressed (it) to me personally in my office, I should have required the servants of the Patent office forcibly, but gently, to remove him to the street. Addressing me from a distance in writing, I have no other recourse but to return his offensive letters, and to suspend all official intercourse with him.

These are the reasons why I declined to order copies for him on your demand. As my determination in this matter is inflexible, I shall reply to no more letters from him, nor from his agents who are apprised of the character of his intercourse with this office, until he comes to the conclusion to address the head of the office in respectful language.

You were right in informing me for whom you wanted the copies. I do not refuse them on the ground that you did not tender the money for them, but solely on the ground of the repeatedly insulting conduct towards the head of this office of your employer.

For yourself, individually, or as the agent of others who appreciate and observe the proprieties of official intercourse, I need not say that the Patent office is ready at all times to do anything within the scope of its legitimate duties.

EDMUND BURKE,
Commissioner of Patents.

J. J. Greenough, Washington city.

Boyden to Burke, Dec. 14, 1847.

BOSTON, MASS., *December* 14, 1847.

SIR: I received two of my letters of the 7th and 18th of September, 1847, which I formerly sent to you, which I presume you returned; and I have lately received the copies of Babbit's, Pilling's, and Wheeler's patent.

I hoped after sending my letter of September 7, 1847, that you would conclude to recede from your improper conduct; but as sufficient time has elapsed, and as I have given you sufficient opportunities for receding, and you have only partially done so, it seems necessary for me now to give you further proof of the impropriety of your management.

In your letter of August 10, 1847, you say, that you return my letter of August 13, 1847, to me "unanswered," because it is not. as you say, "in respectful and proper language;" and you say that, "until you can address the office in *in* a respectful and proper manner, your business cannot receive its attention." Though you use the word "office" in several places in this letter, it does not appear whether you mean by it yourself, or those employed under your direction, or something else, and I cannot infer from this letter who or what you wish me to address my letters to. On page 15 of a printed circular, which

you have sent to me for my guide in my dealings with you, as Commissioner of Patents, you say, "all communications should be addressed to the Commissioner of Patents." And the same direction has been published at various times, and is in the "Journal of the Franklin Institute" and in "the new Library of Law and Equity." All the letters which I have intended for your reading, or for the reading of those employed in the Patent office, while you have been Commissioner of Patents, have been addressed to you as Commissioner of Patents.

I will next reply to your prescription, that my writing should be in proper language. I knew that my writing should be proper, and I believe it is so. Though it is true that violations of grammatical rules and other improprieties generally occur in the parts of my letters which are quotations from yours. But I am neither the author or endorser of the errors in your writing, which I quote; and none of your writings, which I have quoted, is so bad as to make it improper for me to quote it when you give me cause for doing so. Therefore, you have no reason to complain of the improprieties in said quotations.

When I write to a person of limited knowledge, who uses can't, I sometimes use some of his cant, when it seems probable he will understand such writing, but will not understand correct writing; I, in a few instances, used some of your cant, merely because I thought you would be more likely to understand it than any other language. It is proper for me to adapt my writing, in some measure, to the capacities of those to whom I write.

It is no less incumbent on you, than on me, to write with propriety; and if you are not capable of doing so, you should resign the office of Commissioner of Patents.

A part of one of your letters of April 29, 1846, seems to me to be an unsuccessful attempt to ridicule me for claiming what I did. A commissioner of patents ought to know better than to ridicule applicants for patents on account of their claims, when the commissioner is as ignorant of the subjects claimed as you are. But I made no reply to your insults till more than fourteen months after you sent said letter to me, and till after I had received your attack of June 2, 1847. I do not accuse you of intending to write improperly in every instance in which you do write so. One reason of your not being able to write very clearly on mechanics is, that you have not very clear conceptions of mechanical principles. It is not to be believed that a person has very clear conceptions of mechanical principles, who calls them "matters of substance."

As you urge me to indicate that I respect you or "the office," I will give you additional proof of the impropriety of my complying with your wish. If a commissioner of patents were worthy of respect, and had done nothing which deserved disrespect, he undoubtedly should not be treated disrespectfully; but it is not necessary in such a case to indicate respect in writing to him.

There is no statute which requires people to indicate, in their letters to commissioners of patents, that they respect the commissioners. And

some of the forms of letters to commissioners of patents, which have been published for the use of those having business at the Patent office, have some expression of respect, and others have no expression or indication of respect for the commissioners.

The term honorable is, in a few instances, prefixed to the name of the commissioner, where, in fact, the commissioner mentioned was an honorable man.

I have prefixed this term to your name in all the letters which I have addressed to you. But I believe that "Hon.," as prefixed to your name, is now generally regarded as a mere form, without implying any respect; and I so use it. But I suspect such an apparent incongruity is regarded as improper by some people, as I have observed that some eminent individuals, who have had full means of knowing how you have conducted while you have been Commisssioner of Patents, now write of you in your official capacity without using this prefix. Though it is common, especially in legal instruments, to continue to write old forms, which, if understood according to their literal or original meaning, would appear absurd; as, in this instance, you may not comprehend it fully, I will therefore illustrate it by another instance. According to ancient custom, the Crown, in commissioning the lord lieutenant of Ireland, called him "my dearly beloved cousin," though they might not be related to each other. A certain man was so mischievous, and gave the Crown so much trouble, that the Crown called him the devil; and he believed that if this individual were made lord lieutenant, he would be less troublesome; and the Crown was informed that a commission was prepared, excepting a blank was left for the insertion of the name of the person to be appointed; and he immediately ordered the blank to be filled by inserting "the devil." You may perceive that in the phrase, "my dearly beloved *beloved* cousin, the devil," the adjunct to the name is not to be understood literally; and you will probably be able to extend this method of construing to an adjunct prefixed to another name.

If you consult some person versed in law, you will be informed that you neither have, or ought to have, any authority to establish the absurd rule which you attempt to impose on me.

If, in your letter of August 10, 1847, you mean by the "office" yourself, or the author of the letters which I have received from you, you prescribe two conditions in said letter, which are inconsistent, viz., that my letters to you, or to the author of those letters subscribed by you, should be both respectful and proper. It is improper to treat a person respectfully while it is known that he is unworthy of respect; therefore, it is impossible to comply with your prescriptions. The claim of unworthy office-holders to have people, as they say, respect the offices they hold, while it is known that the incumbents are unworthy of respect, is absurd. Do you mean, when you urge people to respect "the office," to have them respect you, merely because you hold the office, while it is known that you are unworthy of respect? This is a free country! But if its inhabitants were bound to respect, or to pretend to

respect, what they know is unworthy of respect, and what it is impossible for them to respect, it could not be called a free country with any propriety. The slavery of the mind is infinitely more abject than the slavery of the body; and no slavery of the mind is more servile than this slavery which such office-holders desire.

Though some inventors and patent agents flatter you grossly to accomplish their objects, I shall not descend to the immorality and meanness of flattery to avoid litigation, or for any other purpose.

If you make it necessary for me to prove you unworthy of respect, it is proper for me to do so. If you do not want such proof, you should not make it necessary for me to give it.

No one, while holding the office of Commissioner of Patents, however ignorant he may be of the duties of the office, should neglect his duties and devote his time to political party purposes. It has been mentioned in discussion in Congress, that you devoted a part of your time to party politics; it has been alluded to in newspapers, and it is common talk; while it is well known that those having business at the Patent office often wait months before it is even imperfectly transacted. As I believe the common report is true, it must be a cause of my disrespecting you. If, as is generally believed, your devotion to party purposes was the cause of your being appointed to the office, this is no justifiable cause for your holding the office and continuing to devote your time to such purposes, while the business in the office is improperly delayed and imperfectly done.

You say that the salaries allowed by law to the examining clerks in the Patent office are not sufficient to retain the services of capable men. The salary provided by law for the Commissioner of Patents was supposed to be sufficient to procure a person who is intelligent, and who would devote his time to the duties of the office. Such a person has, and can again, do the business of the office better than it is now done, without paying any higher salaries to the clerks than are provided by law. The manner in which the business is now done at the Patent office, is quite as much proof of your incompetency or negligence, as it is of defects in the laws. If, in consequence of your negligence, the former letters which you sent to me were prepared by your incompetent clerks, and subscribed by you without your knowing their contents, you deserve censure for your negligence. And if it might, at one time, have been suspected that, for such a reason, you was not fully accountable for the letters which you sent to me, it cannot now be maintained that you are not fully accountable; because you say, in your letters of August 10, 1847, that my letter of the 13th and 30th of July were received during your absence from the city; and as it appears that the reply was delayed for your return, and that the matter received your attention at the time your reply was prepared, and as I am also informed by others that you gave your attention to the subject, and as you, in reply, express no disapprobation of your former letters, but proscribe mine, it cannot now be maintained that you are not fully accountable for all which is in your said letters.

And, in replying, you have fully committed yourself, and given additional proof of your being no more worthy of respect than they indicate their author to be.

I wish you to deliver to Mr. J. James Greenough, patent agent, of Washington, a certified copy of each of the following patents, including drawings, specifications, and claims, or of all of them which are recorded in the Patent office: George W. Henderson and John E. Cayford's patent, dated April 14, 1830; Charles Kenzie's patent, dated July 1, 1836, and J. K. Millard's patent, dated May 9, 1846, and he will pay you for them.

I hope you will, without further delay, attend to my business, which you have neglected to do, and which you said you refused to do for want of an apology from me.

URIAH A. BOYDEN.

To Hon. EDMUND BURKE,
Commissioner of Patents.

Boyden to Greenough.

BOSTON, MASS., *December* 14, 1847.

SIR: Your letter of the 23d ult. was duly received. I wrote to Mr. Burke to day criticising his conduct, and informing him that I wish him to deliver to you a certified copy of each of the following patents, including drawings, specifications, and claims, or of all of them which are recorded in the Patent office: George W. Henderson and John E. Cayford's patent, dated April 14, 1830, Charles Kenzie's patent, dated July 1, 1836, and J. K. Millard's patent, dated May 9, 1846

You will oblige by tendering the fees for these copies if he declines furnishing them, and if you obtain them I wish you to send them by mail to me at Boston. Respectfully,

(Signed) URIAH A. BOYDEN.
Test: JOHN A. SMITH, *Clk.*

And whereas, afterwards, to wit, on the day of May, in the year of our Lord eighteen hundred and fifty-one, the said plaintiff, by his attorneys aforesaid, produced and filed in court here the United States writ of the correcting of errors upon the judgment aforesaid, directed to the judges of the circuit court of the District of Columbia, in the county of Washington, and in pursuance thereof, and according to the form and effect of the law in such case made and provided, a transcript of the record of proceedings of the judgment aforesaid, and all things thereunto relating, with the writ of error aforesaid, and a copy of the appeal bond hereto annexed, are hereby transmitted to the said Supreme Court accordingly.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said court, this 13th day of December, 1851.

JNO. A. SMITH, *Clk.*

THE UNITED STATES OF AMERICA,
District of Columbia, to wit:

The President of the United States, to the judges of the circuit court of the District of Columbia, for the county of Washington, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court, before you, or some of you, between Uriah A. Boyden, plaintiff, and Edmund Burke, defendant, a manifest error hath happened to the great damage of the said plaintiff, as by his complaint appears. We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; and that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, which of right and according to the laws and custom of the United States should be done.

Witness the Hon. Roger B. Taney, chief justice of said Supreme Court.

Issued this 15th day of December, 1851.

JNO. A. SMITH, *Clerk circuit court,*
Washington co., Dis't of Col'a.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America, to Edmund Burke, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error, filed in the clerk's office of the circuit court of the District of Columbia, for the county of Washington, wherein Uriah A. Boyden is plaintiff in error, and you are defendant in error, to show cause if any there be, why judgment rendered against the said Uriah A. Boyden should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness the Hon. W. Cranch, chief judge of the circuit court of the District Columbia, this 15th day of December, 1851.

Copy appeal bond.

Know all men by these presents, that we, Joseph H. Bradley and Richard H. Laskey, are held and firmly bound unto Edmund Burke, in the full and just sum of two hundred dollars, lawful money, to be paid to the said Edmund Burke, his certain attorney, executors, adminis-

trators, or assigns; to which payment, well and truly to be made and done, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 15th day of December, eighteen hundred and fifty-one.

Whereas lately, at a circuit court of the District of Columbia, sitting for the county of Washington, in a suit pending in the said court, wherein the said Uriah A. Boyden was plaintiff, and the said Edmund Burke was defendant, judgment was rendered against the said plaintiff, and he having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit; and a citation directed to the said Edmund Burke, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next.

Now, the condition of the above obligation is such, that if the said Uriah A. Boyden shall prosecute his writ to effect, and answer all damages and costs if he fails to make his plea good, then the above obligation to be null and void, otherwise to be and remain in full force and virtue in law.

JOS. H. BRADLEY, [SEAL.]
RICHARD H. LASKEY. [SEAL.]

Signed, sealed, and delivered, in the presence of—

Approved.

JAMES S. MORSELL.

13th December, 1851.

True copy.

Test: JOHN A. SMITH.